

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0212-04  
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SB 100  
Subject: Courts; Civil Procedure; Criminal Procedure; Attorneys; Family Law; Judges  
Type: Original  
Date: June 5, 2013

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Bill Summary: This proposal revises various laws regarding judicial procedures.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(Less than \$100,000)	(\$1,018,131) to (\$1,118,131)	(\$2,796,768) to (\$2,896,768)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Less than \$100,000)</b>	<b>(\$1,018,131) to (\$1,118,131)</b>	<b>(\$2,796,768) to (\$2,896,768)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
MODEX	Less than \$426,402	Less than \$511,683	Less than \$511,683
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Less than \$426,402</b>	<b>Less than \$511,683</b>	<b>Less than \$511,683</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 15 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	0	22 FTE	22 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>22 FTE</b>	<b>22 FTE</b>

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	<b>Less than \$1,380,973</b>	<b>Less than \$1,755,168</b>	<b>Less than \$1,755,168</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### **§ 32.056 - Department of Revenue Release of Information**

Officials from the **Department of Revenue (DOR)** state this part of the proposal eliminates the requirement for a member of the judiciary enrolled in the Department's confidential records system to notify the Department once their qualification for enrollment comes to an end. If the participant does not notify the Department, he or she would remain enrolled in the Department's confidential records system.

Currently, if a participant's qualification for enrollment comes to an end, but she or he does not notify the Department of such change, the participant remains within the confidential records system. The Department would retain the ability to remove of an individual who is enrolled in the confidential records system the confidential records system if such person's status changes, but such removal would not be required.

DOR stated:

- The DMPO Confidential Records Process manual will need to be revised by a Management Analyst Specialist I requiring 40 hours of overtime at a cost of \$1,206 in FY 14; and
- The Restriction of Information, form 4568, will need to be revised requiring 40 hours of overtime for a Management Analyst Specialist I, at a cost of \$1,206 in FY 14.

In summary, DOR assumes a cost of \$2,412 in FY 2014 to implement this change.

**Oversight** assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

#### **§ 452.400 - Paternity Testing**

Officials at the **Office of State Courts Administrator** assume there is no fiscal impact from this proposal.

Officials from the **Department of Social Services - Family Support Division** assume the section would not have a fiscal impact.

RS:LR:OD

ASSUMPTION (continued)

No officials from the Circuit Court Clerks offices or the St. Louis Family Court responded to **Oversight's** request for a statement of fiscal impact.

§§ 453.030 & 453.050 - Adoption Consent

Officials from the **Office of the State Courts Administrator** assume this part of the proposal would not have a fiscal impact.

Officials from the **Department of Social Services (DSS)** stated this bill makes some procedural changes to the requirements for adoption consent.

Subsection 453.030.4 allows adoption consent to be executed in front of a judge, as well as a notary public and requires the judge to advise the consenting birth parent of the consequences of the consent. This provision is intended to expedite the permanency process. Subsection 453.050.2 applies these same provisions to execution of a waiver of consent to a future adoption.

This bill modifies court procedure for the court to approve consents for adoption and adds that consent is final when executed, unless the consenting party, prior to the final decree of adoption, alleges and proves by clear and convincing evidence that the consent was not freely and voluntarily given. This bill gives the burden of proving the consent was not freely and voluntarily given to the consenting party. Additionally this bill adds the requirement that consents must be executed not more than six months prior to the date the petition is filed.

Current law (Section 453.050.1.) permits a parent to waive the need to give consent to a future adoption as long as the child is at least two days old. In FN 1137-01 (HB371) this was reduced to one day; however in this bill (FN 212-02) current law is unchanged; i.e. it remains two days.

These provisions are intended to expedite the adoption process by permitting consents for adoption and waiver of consents for adoption to be executed before a judge. It also assures that judges are informing birth parents of the consequences of signing a consent for adoption or a waiver of consent. The Children's Division does not anticipate a fiscal impact as a result of the changes in these sections of the law.

The Division of Legal Services (DLS) notes that a significant change made by this bill is that consent is no longer final when reviewed and approved by the court but rather is final upon execution. Additionally, a consenting party may now only overturn the consent if they prove that their consent was not given freely and voluntarily. Such consent must now be executed no more than six months prior to the adoption case's filing. This change should have little, if any, legal

ASSUMPTION (continued)

impact and no fiscal impact on DLS/DSS.

These sections also have no fiscal impact on DSS's child support program.

§ 454.475 - Administrative Child Support Orders

Officials from the **DSS** state this section allows an administrative hearing officer to correct an administrative decision or order that contains clerical mistakes arising from oversight or omission at any time prior to the court's review of the administrative decision. The change may be initiated by the hearing officer. In addition, any party to the action can file a written motion with the hearing officer requesting the change. A copy of the written motion must be made available to all parties. Any objection or response to the written motion must be made in writing and filed with the hearing officer within fifteen days from the mailing date of the motion.

There is no fiscal impact to the Department of Social Services. The changes proposed in this bill will allow DSS to administratively address incorrect and invalid administrative hearing decisions, orders, and proposed orders to better serve the parties to an FSD child support case. However, FSD does not anticipate this bill having a significant fiscal impact to the FSD's child support program

§ 476.057 - Training of judicial staff

Officials from the **CTS** and the **Office of the State Treasurer** each assume this proposal would not fiscally impact their respective agencies.

§§ 477.405 & 478.320 - Guidelines for Determining Need for Additional Court Personnel

Officials at the **Office of State Courts Administrator** assume this section of the proposal would provide the CTS with the ability to determine the need for additional full-time judicial positions indicated in a judicial weighted workload model for three consecutive years or more.

The judicial weighted workload for the past three consecutive years indicates the following circuits need for additional full-time judicial positions in the last six months of FY 2015:

Circuit 11	St. Charles County	1 Associate Circuit Judge & 1 Court Clerk III
Circuit 16	Jackson County	1 Associate Circuit Judge & 1 Court Clerk III
Circuit 21	St. Louis County	3 Associate Circuit Judges & 3 Court Clerks III
Circuit 31	Greene County	2 Associate Circuit Judges & 2 Court Clerks III
Circuit 38	Christian County	1 Associate Circuit Judge & 1 Court Clerk III

ASSUMPTION (continued)

In FY 2016, there would be a need for additional full-time judicial positions in the following circuits:

Circuit 21	St. Louis County	2 Associate Circuit Judges & 2 Court Clerks III
Circuit 31	Greene County	1 Associate Circuit Judge & 1 Court Clerk III

This results in the addition of eleven Associate Circuit Judges at \$116,858.40 per judge, per year, plus fringes and eleven Court Clerks III at \$31,800, per clerk, per year, plus fringes. The total cost would be \$1,285,442 (Associate Circuit Judge Annual Salary \$116,858.40), \$978,321 fringes (Associate Circuit Judge Annual Fringes \$88,939.25), \$349,800 (Court Clerk III Salary \$31,800), \$177,506 (Court Clerk III Fringes at 50.745%).

These sections of the proposed legislation would not become effective until January 1, 2015. The total cost in FY 2015 would be \$1,018,131 (six months) and \$2,796,768 (twelve months).

§ 478.007 - DWI Court

Officials at the **Department of Corrections** assume there is no fiscal impact from this proposal.

In response to a similar proposal from this year (HB 354), officials from the **Department of Revenue** assumed there was no fiscal impact from this proposal.

Officials from the **Office of the State Courts Administrator** stated the proposal would allow for the utilization of private probation and parole services to provide judicial supervision in DWI courts. Since the legislation is permissive, we have no way of knowing how many circuits would create the programs. Any significant increase in workload will be reflected in future budget requests.

§ 488.426 - Court Surcharge

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would allow certain circuits (Clay County, Boone and Callaway Counties, St. Louis County, St. Louis City and Greene County) to charge up to a \$20 law library surcharge. The limit is now \$15.

ASSUMPTION (continued)

CTS states during the past five years (2008 to 2012) an average of 150,697 civil cases were filed in these counties. If an additional \$5.00 fee was assessed on every case and collections were 100%, the additional income would total approximately \$753,485 in a given year.

Circuit	Civil Cases	<u>Potential additional \$5 library surcharge revenue</u>
Clay County (7 <sup>th</sup> )	16,395	\$ 81,975
Boone and Callaway Counties (13 <sup>th</sup> )	10,227	\$ 51,135
St. Louis County (21 <sup>st</sup> )	69,197	\$345,985
St. Louis City (22 <sup>nd</sup> )	35,445	\$177,225
Greene County (31 <sup>st</sup> )	<u>19,433</u>	<u>\$ 97,165</u>
<b>TOTALS</b>	<b><u>150,697</u></b>	<b><u>\$753,485</u></b>

**Oversight** assumes the proposal is permissive to the specific circuit courts and allows them to increase their this fee from \$15 to \$20. Oversight assumes not all circuits would choose to increase their fees; therefore, Oversight will range the fiscal impact from the proposal as "Up to \$753,485". Oversight will reflect these additional revenues as potential income to local political subdivisions. Oversight will reflect ten months of potential impact in FY 2014.

The proposal does not change or expand the requirements of the circuit courts or how this additional revenue must be spent. Therefore, for purposes of the fiscal note, Oversight will only reflect the potential additional income that may be realized by specific circuit courts as a result of the proposal.

§ 488.2230 - Court Costs for Certain Municipal Ordinance Violations in Kansas City:

Officials from the **Office of State Courts Administrator** assume the proposal would not fiscally impact their agency.

Officials from the **City of Kansas City (KC)** estimate the additional costs of \$7 per municipal ordinance violation to fund special mental health, drug and veterans courts and indigent defense will result in the following additional revenues per year.

FY14: \$326,667

FY15: \$490,000

FY16: \$490,000

**Oversight** assumes this proposal allows KC to charge an additional \$7 dollars in municipal ordinance violation cases.

ASSUMPTION (continued)

**Oversight** assumes this proposal could result in additional revenues to KC if the city chooses to collect additional revenue for court costs. However, the proposal is permissive, and for the purpose of the fiscal note, **Oversight** will show a direct fiscal impact of \$0 or \$326,667 in FY14, \$0 or \$490,000 in FY15, and \$0 or \$490,000 in FY16 to KC.

§ 488.2250 - Fee for Transcripts

Officials from the **Office of the State Courts Administrator** state the current expense for transcripts is a total of \$106,458. This proposal raises the page rate for transcripts from \$2.00 per page where the party/attorney is paying for the transcript to \$3.50 and \$2.60 for indigents. The total amount for original transcripts (\$51,677) and transcript copies (\$13,395) would be \$65,072 at \$2.00 per page. The increase to \$2.60 per page would be an increase of \$19,522 for indigents.

In addition, the proposal also does not address the charge for additional copies, paper or electronic which could result in confusion in the future.

Officials at the **Department of Social Services** assume there is no fiscal impact from this proposal.

**Oversight** will reflect this additional cost as "Less than \$100,000" in each fiscal year to the General Revenue Fund.

§ 488.5320 - MODEX

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation allows charges for cases disposed of by a traffic violations bureau and distributes the proceeds to MODEX and inmate security funds and creates the MODEX fund.

Based on FY 2012 data, there were approximately 170,561 traffic cases on which the \$6.00 surcharge could be applied. CTS anticipates the MODEX revenue from the surcharge would be approximately \$511,683 ( $170,561 \times \$6 / 2$ ) in any given year, with an equal amount going to the counties' inmate security funds.

The proposal excludes St. Louis City and St. Louis County from these collections. Oversight does not know what portion of CTS' estimate include collections from those two political subdivisions. Therefore, Oversight will reflect potential collections of 'Less than' the estimate provided by CTS.

With an August 28, 2013, effective date, **Oversight** will reflect 10 months of activity in FY 2014.



ASSUMPTION (continued)

§ 513.430 - Exemption from Attachment

Officials at the **Office of State Courts Administrator** assume there is no fiscal impact from this proposal.

In response to a similar proposal from this year (SB 100), officials from the **Department of Revenue** assumed the proposal would not create a fiscal impact to their agency.

Bill as a Whole

Officials at the **Missouri Highway Patrol, Department of Insurance, Financial Institutions and Professional Registration** and the **Office of the State Public Defender** each assume there is no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>GENERAL REVENUE</b>			
<u>Costs - Office of State Courts Administrator</u>			
Personal Service	\$0	(\$595,906)	(\$1,649,319)
Fringe Benefits	\$0	(\$413,393)	(\$1,144,137)
Expense and Equipment	<u>\$0</u>	<u>(\$8,832)</u>	<u>(\$3,312)</u>
<u>Total Costs - CTS §477.405</u>	\$0	(\$1,018,131)	(\$2,796,768)
FTE Change - CTS	\$0 FTE	22 FTE	22 FTE
<u>Costs - CTS §488.2250 - Increase in court reporter fees</u>	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b>(Less than <u>\$100,000</u>)</b>	<b><u>(\$1,018,131) to (\$1,118,131)</u></b>	<b><u>(\$2,796,768) to (\$2,896,768)</u></b>
Estimated Net FTE Change for the General Revenue Fund	0	22 FTE	22 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**MODEX FUND**

<u>Income</u> - one-half of \$6 surcharge for infractions processed through the traffic violations bureau § 488.5320	<u>Less than</u> <u>\$426,402</u>	<u>Less than</u> <u>\$511,683</u>	<u>Less than</u> <u>\$511,683</u>
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<b>ESTIMATED NET EFFECT TO THE MODEX FUND</b>	<b><u>Less than</u></b> <b><u>\$426,402</u></b>	<b><u>Less than</u></b> <b><u>511,683</u></b>	<b><u>Less than</u></b> <b><u>\$511,683</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**LOCAL POLITICAL SUBDIVISIONS**

<u>Income</u> into the counties' inmate security fund from one-half of \$6 surcharge for infractions processed through the traffic violations bureau §488.5320	<u>Less than</u> <u>\$426,402</u>	<u>Less than</u> <u>\$511,683</u>	<u>Less than</u> <u>\$511,683</u>
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<u>Revenue</u> - potential increase in law library surcharge from \$15 to \$20 in certain circuits. §488.426	Up to \$627,904	Up to \$753,485	Up to \$753,485
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<u>Revenue</u> - KC § 488.2230 - Additional \$7 for municipal ordinance violation cases	<u>\$0 or \$326,667</u>	<u>\$0 or \$490,000</u>	<u>\$0 or \$490,000</u>
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<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Less than</u></b> <b><u>\$1,380,973</u></b>	<b><u>Less than</u></b> <b><u>\$1,755,168</u></b>	<b><u>Less than</u></b> <b><u>\$1,755,168</u></b>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This act modifies various provisions relating to various court proceedings, court costs, and surcharges and judicial personnel.

### RELEASING INFORMATION:

First, the act repeals the requirement that a member of the judiciary must notify the Department of Revenue when the member's status changes and the member no longer qualifies for the exemption which prohibits the Department from releasing certain information (Section 32.056)

### CRIMINAL RECORDS AND JUSTICE INFORMATION ADVISORY COMMITTEE:

Within the Department of Public Safety there is a Criminal Records and Justice Information Advisory Committee, which is composed of various members. This act replaces the chairman of the circuit court budget committee as a member of the advisory committee with the chairman of the court automation committee (Section 43.518).

### CREDIT AGREEMENTS:

A credit agreement must be executed by both the debtor and the lender for a debtor to maintain an action upon or defense related to the credit agreement (Section 432.047).

### MORTGAGE LOAN ORIGINATORS:

The act requires licensed mortgage loan originators to complete one hour of continuing education in Missouri law and regulations, as part of the eight hours of education necessary to maintain licensure (Section 443.723).

### CHILD CUSTODY:

Currently, when custody or visitation is interfered with by a parent without good cause the aggrieved person may file a family access motion with the court stating the facts which constitute a violation of the judgment of dissolution or legal separation. This act states that the aggrieved person may file a family access motion with the court also for a violation of a judgment of paternity (Section 452.400).

FISCAL DESCRIPTION (continued)

ADOPTION PROCEEDINGS:

When the person sought to be adopted is under eighteen then written consent of certain persons is required. The act specifies that the signatures of the mother of the child, the man who has established paternity of the child or the current adoptive parents of the child must execute in front of a judge or before a notary. If the signatures are executed in front of a judge then the judge must advise the birth parent of the consequences of consent (Section 453.030).

A parent may waive the necessity of consent to future adoption of the child, and the waiver must be acknowledged before a notary or executed in front of a judge. When the waiver is executed in front of a judge then the judge must advise the parent of the consequences of the waiver (Section 453.050).

ADMINISTRATIVE PROCEEDINGS:

The act grants the authority to administrative hearing officers from the Department of Social Services to set aside or correct administrative child support decisions or orders and proposed administrative modifications of a judicial order. Such authority to set aside or correct decisions, orders or modifications must be done after written notice and an opportunity to respond to all parties and any objection or response to such motion shall be made in writing within 15 days from the filing of the motion to correct or set aside. The act specifies the conditions and time frame under which the corrections can be made.

Specifically, an order, decision or modification based on errors arising from mistake, fraud, misrepresentation, excusable neglect or inadvertence may be corrected prior to being filed with the court provided the written motion is mailed to all parties and filed within 60 days of the administrative decision, order or proposed decision and order. Any objection or response to the motion shall be filed within 15 days from the mailing of the motion. No decision, order, or proposed modification of a judicial order may be vacated after 90 days from the mailing of the administrative decision, order, or proposed modification of a judicial order.

In cases of lack of jurisdiction, the hearing officer may, after notice to the parties, on his or her own initiative or upon the motion of any party or the Family Support Division, vacate the administrative order or proposed administrative modification of a judicial order if it is found the order, decision or modification was without subject matter or personal jurisdiction or due process and the order, decision or modification had not been filed with the court.

This act also specifies however, that no corrections shall be made during the court's review of the applicable administrative decision, order or proposed order as authorized under the judicial

FISCAL DESCRIPTION (continued)

review procedures for such administrative decisions under Chapter 536, RSMo, except in response to an express order from the reviewing court (Section 454.475).

SEGREGATION OF FEES COLLECTED BY THE OFFICE OF STATE COURTS  
ADMINISTRATOR:

The act specifies that moneys collected for providing training to judicial personnel by the Office of State Courts Administrator shall be deposited in a special fund, but moneys in the fund in connection with a particular purpose shall be segregated and not disbursed for any other purpose (Section 476.057).

SUBMISSION OF JUDICIAL WEIGHTED WORKLOAD MODELS:

The act states that the Supreme Court shall submit a judicial weighted workload model and a clerical weighted workload model to the chairs of both the House and the Senate Judiciary Committees, to be distributed to the members of the General Assembly (Section 477.405).

DWI COURT:

The act allows the DWI court to use a private probation service when the Division of Probation and Parole is unavailable to assist in the supervision of a person who wishes to enter a DWI court. A person cannot be rejected from participating in the DWI court for not residing in the city or county where the DWI court is located (Section 478.007).

JUDICIAL POSITIONS:

When a judicial weighted workload indicates for three consecutive years that a judicial circuit with a population of one-hundred thousand or more is in need of four or more full-time judicial positions, then there shall be one additional associate circuit judge position in such circuit. In circuits composed of multiple counties, the additional associate circuit judge position shall be apportioned among the counties based on population (Section 478.320).

SURCHARGES IN CIVIL CASES:

The act modifies provisions which allow Jackson County to charge up to a twenty dollar surcharge when a party files a civil court case. Currently, only Jackson County can charge twenty dollars, and all other circuits may charge up to fifteen dollars. This act authorizes any circuit court that reimburses the state for the salaries of family court commissioners to charge up to a twenty dollar surcharge for such cases (Section 488.426).

FISCAL DESCRIPTION (continued)

KANSAS CITY MUNICIPAL VIOLATIONS SURCHARGE:

The act allows Kansas City to provide for an additional surcharge of up to seven dollars in municipal ordinance violation cases. No additional cost shall be collected in a proceeding involving an indigent defendant. The surcharge shall be used to fund special mental health, drug, and veterans courts. (Section 488.2230).

COURT TRANSCRIPTS COSTS:

The act specifies that the court reporter shall receive three dollars and fifty cents per page for appeal transcripts. When the defendant is indigent or when a judge orders a transcript, the court reporter shall receive two dollars and sixty cents per page (Section 488.2250).

MODEX FUND:

Currently, sheriffs, county marshals and other officers are not allowed to charge for their services rendered in cases disposed of by a violations bureau. This act allows these officials to charge six dollars for their services, even when a case is disposed of by a violations bureau. One-half of the amount collected will be deposited in the MODEX fund. The other half will be deposited in the inmate security fund of the county or municipality where the citation originated. If the county or municipality does not have an inmate security fund, all of the amount collected shall be deposited in the MODEX fund.

This act also creates the MODEX fund. The fund will be used for the support and expansion of the Missouri Data Exchange (MODEX) system. The Peace Officers Standards and Training Commission will administer the fund.

The act specifies that sheriffs, county marshals or other officers located in St. Louis County or St. Louis County cannot charge for their services rendered in cases disposed of by a violations bureau (Section 488.5320).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator  
Office of the State Public Defender  
Department of Corrections  
Department of Insurance, Financial Institutions and Professional Registration  
Office of the State Treasurer  
Department of Revenue  
Department of Social Services  
Missouri Highway Patrol  
City of Kansas City



Ross Strobe  
Acting Director  
June 5, 2013